

February 22, 2011

Ms. Mary Rupp  
Secretary of the Board  
National Credit Union Administration  
1775 Duke St  
Alexandria, VA 22314-3428

Re: Sample Income Data to Meet the Low-Income Definition; RIN 3133-AD76

Dear Ms. Rupp,

The Credit Union National Association (CUNA) appreciates the opportunity to comment on the National Credit Union Administration (NCUA) Board's proposal to amend its low-income rule (§ 701.34) to allow federal credit unions that do not qualify for a low-income designation using NCUA's geocoding software to submit an analysis of a statistically valid sample of member income data as evidence that they qualify as low-income. By way of background, CUNA is the largest credit union trade organization in the country, representing approximately 90 percent of our nation's nearly 7,600 state and federal credit unions, which serve approximately 93 million members.

### Summary of CUNA's Comments

- We generally support the Board's proposed amendments to its low-income rule, but we have concerns with the proposed process by which NCUA would evaluate the sample income data and supporting narrative.
- We agree with the Board's rationale for addressing the low-income rule, which is that the collection of actual income data can be problematic.
- Generally, we support the proposed criteria for determining whether a sample is statistically valid and random; these are: (1) representativeness of members; (2) income definition and timing; (3) minimum sample size; (4) methodology; and (5) underlying data. However, we believe that rather than spelling out the specifics of the criteria in the rule's Supplementary Information, the Board should provide credit unions with a more detailed explanation of what NCUA will be looking for in the narrative and supporting materials.

- Under the proposal, the random sample would be required to have a minimum confidence level of 95% and a confidence interval of 5%. While we support the proposed minimum confidence level of 95%, we believe a minimum confidence interval of 5% is too low and we ask the Board to consider increasing it to 10%.
- We agree that NCUA should assess a sample's income definition and timing in its review. However, we do not agree with the language in the Supplementary Information stating that a credit union relying on income data from loan files should exclude files over five years old. We believe this period should be increased to ten years.
- We do not support the Board's decision not to include a timeframe for NCUA's review of submissions by federal credit unions. We believe a more appropriate approach is to establish a reasonable timeframe in order to accommodate issues that may arise during NCUA's review.

### **Discussion of CUNA's Views**

We support the Board's proposal to amend its low-income rule, which would allow federal credit unions the option of providing an analysis of a sample of member income data to show that they qualify as low-income as an alternative to using NCUA's geocoding software. However, as discussed below, we have concerns with the proposed process by which NCUA would evaluate the sample income data and supporting narrative that credit unions would be required to submit.

As proposed, the low-income rule would be amended to include the following:

A Federal credit union may rely on a sample of membership income data drawn from loan files or a member survey provided the federal credit union can demonstrate the sample is a statistically valid, random sample by submitting with its data a narrative describing its sampling technique and evidence supporting the validity of the analysis, including the actual data set used in the analysis. The random sample must be representative of the membership, must be sufficient in both number and scope on which to base conclusions, and must have a minimum confidence level of 95% and a confidence interval of 5%.

### **Need for Board Action**

We appreciate the Board's initiative in reviewing the low-income rule, which was amended in 2008 to provide credit unions with the option of submitting actual income information about their members as a basis for qualifying as a low-income credit union (LICU). Based on its review, the Board determined that: (1) credit unions may find it difficult to meet the requirement of collecting actual income data establishing the low-income status of at least 50% plus one of their members; (2) conducting an income survey poses the problem of

achieving a sufficient response rate due to a general reluctance of members to disclose their income; and (3) obtaining income information from loan applications may be problematic for credit unions that have not made loans to over 50% of their members.

We agree with the Board's rationale for addressing the low-income rule. We believe it is not only very difficult, but that it simply may not be possible for a number of credit unions to collect actual income data establishing the low-income status of at least 50% plus one of their members.

#### Establishing a Statistically Valid, Random Sample

Under the proposal, NCUA would evaluate the sample income data and supporting narrative provided by the credit union to verify that it is a statistically valid, random sample. Further, the narrative and supporting materials would need to address the sample's: (1) representativeness of members; (2) income definition and timing; (3) minimum sample size; (4) methodology; and (5) underlying data.

Generally, we support the proposed criteria for determining whether a sample is statistically valid and random. However, we believe that rather than spelling out the specifics of the criteria in the rule's Supplementary Information, the Board should provide credit unions with—possibly through a letter to credit unions—a more detailed explanation of what NCUA will be looking for in the narrative and supporting materials.

As mentioned above, under the proposal, NCUA would determine the validity of a sample by reviewing certain criteria, including the income definition and timing that was used. We agree that NCUA should assess a sample's income definition and timing in its review. However, we do not agree with the language in the Supplementary Information stating that a credit union relying on income data from loan files should exclude files over five years old. We believe the Board should increase this period to exclude loan files over ten years old. As the Board stated in its rationale for proposing this rule, many credit unions have not made loans to over 50% of their members. The fact that many credit unions have not made any loans to the majority of their members supports extending this time period to allow credit unions to include loan files for loans made within ten years of seeking a low-income designation.

In addition, the proposal would require that the random sample have a minimum confidence level of 95% and a confidence interval of 5%. While we support the proposed minimum confidence level of 95%, we believe a minimum confidence interval of 5% is too low and we ask the Board to consider increasing it to 10%. The much larger sample sizes required for a minimum 5% confidence interval could have a detrimental impact on the quality of the income data collected for the random sample, since credit unions will have to validate the income data for each individual selected for the random sample.

### Review Period

The Board decided not to include a proposed timeframe for NCUA to review and decide on surveys submitted by federal credit unions seeking designation as low-income. According to the proposal, the Board opposes a timeframe because it believes that a submission under the proposed amendment is likely to present issues unique to the submitting credit union and that both the credit union and NCUA will benefit from having flexibility to evaluate and potentially resolve questions regarding a submission without regulatory time constraints.

However, in our view including a timeframe for NCUA to review submissions could be very useful to the review process and to the credit unions seeking NCUA's decision, as long as the timeframe is both sufficient for NCUA to undertake a reasonable review and short enough to be responsive to the credit union.

Thank you for the opportunity to express our views on the Board's proposed amendment to its low-income rule. If you have any questions about our comments, please do not hesitate to give CUNA Vice President and Deputy General Counsel Mary Dunn or me a call at (202) 508-6743.

Sincerely,

A handwritten signature in black ink that reads "Luke Martone". The signature is fluid and cursive, with a long horizontal line extending from the end of the name.

Luke Martone  
Assistant General Counsel